

265

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M- 37283 of 2023
Date of Decision: 31.08.2023

Karamjit Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vishal Goel, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Bhupinder Singh, Advocate
for respondent No.2.

.....

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 482 of the Code of Criminal Procedure for seeking quashing in the following case (Annexure P-1) :-

FIR No.	Dated	Sections	Police Station
189	08.08.2019	174-A IPC	City Rajpura, District Patiala

2. In nutshell, the facts of the case are that respondent No.2 filed a complaint under Section 138 of Negotiable Instrument Act against Karamjit Singh, (present petitioner) before the learned Judicial Magistrate Ist Class, Rajpura and petitioner never appeared before the learned Trial Court in the said case. Ultimately, learned trial Court vide order dated 06.07.2019 declared the petitioner as proclaimed person and the SHO concerned was

directed to lodge an FIR against the petitioner under Section 174-A IPC.

3. On 27.08.2019, the Complaint case was dismissed as withdrawn by the Court of Judicial Magistrate Ist Class, Rajpura on the statements of both the parties stating that payment of the cheque amount has been made. However the learned trial Court ordered the accused being declared a proclaimed person by the Court vide order dated 06.07.2019 and subsequently FIR under Section 174-A of IPC having been lodged, therefore, he be taken into custody.

4. Thereafter, Challan against the accused was presented in Court and he is facing trial there.

5. After the issuance of notice of motion, the learned State counsel appeared for the State and the learned counsel representing the respondent No.2/complainant had also put in appearance.

6. I have heard the respective submission made by the learned counsels representing the parties and the State.

7. It has been contended by learned counsel for the petitioner that the petitioner never received any summon from the Court regarding the pendency of the complaint under Section 138 of the Negotiable Instrument Act, and being not aware about the proceedings he never appeared before the learned trial Court, resulting in being declared a proclaimed person in the complaint case under the Negotiable Instrument Act, vide order dated 06.07.2019 and on the basis thereof an FIR was registered under Section 174-A IPC which is impugned in the present petition as Annexure P-1. He submitted that during the course of proceedings compromise has been effected between the petitioner and respondent No.2 and the aforesaid

complaint titled “Satish Kumar Vs. Karamjit Singh” has since been withdrawn by the complainant-respondent No.2. As per learned counsel for the petitioner, since the original proceedings ie. the aforesaid complaint have already come to an end on the basis of compromise, therefore, continuing with the proceedings under Section 174-A IPC should also come to an end. He has referred to the judgments cited as *Harbas Singh vs. State of Haryana, and another, CRM-M-56596 of 2022, AIR Online 2022 P and H 1035; Aditya Goyal vs. State of Haryana, CRM-M-11269 of 2019: AIR Online 2019 P and H 2070; Lakhwinder Singh vs. State of Punjab, CRM-M- 37155-2021;* , to argue that since the main complaint filed under Section 138 of the Negotiable Instrument Act has been withdrawn by the complainant on the basis of amicable settlement, therefore, the present proceedings arising out of the FIR (Annexure P-1) under Section 174-A IPC shall be quashed.

8. The learned counsel representing the respondent No.2, complainant of the case under Section 138 of the Negotiable Instrument Act, has admitted the factum of the compromise and the withdrawal of complaint against the petitioner vide order dated 06.07.2019.

9. The learned State counsel has referred to the reply filed by Deputy Superintendent of Police Sub Division Rajpura, District Patiala to submit that the present case was registered against the petitioner after he was declared proclaimed person in the aforesaid complaint under Negotiable Instrument Act. He admitted the fact that the said complaint has since been dismissed as withdrawn on the basis of compromise and the petitioner is facing trial in the impugned FIR.

10. After considering the rival contentions and perusing the record, it is not disputed that a complaint titled “Satish Kumar Vs. Karamjit Singh” was filed under Section 138 of the Negotiable Instrument Act and the present petitioner declared proclaimed person vide order dated 06.07.2019 in the said complaint and on the basis thereof, the impugned FIR (Annexure P-1) was registered against him wherein he is facing trial. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant-respondent No.2 vide order dated 27.08.2019 on the basis of amicable settlement between the parties. It is, the case of the petitioner that he was never served through any summons or warrants in the aforesaid complaint and was declared as proclaimed person wrongly without following the due procedure laid down by the law. It has been held in the judgments referred to above that when the main complaint in which the petitioner has been declared proclaimed person have been withdrawn on the basis of amicable settlement then continuation with the proceedings under Section 174-A IPC would be nothing but the abuse of the process of law.

11. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned FIR No. 189 dated 08.08.2019 registered under Section 174-A IPC at Police Station City Rajpura, District, Patiala (Annexure P-1) and all the subsequent proceedings arising therefrom, stands quashed.

(SANJIV BERRY)
JUDGE

31.08.2023
Gyan

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |